

### **REMARKS**

The Office Action dated January 26, 2005 has been reviewed and the present Amendment has been prepared and is believed to be fully responsive to the Action and to place the application in condition for allowance.

In the Action, the Examiner rejected claims 1-16, 22, 24-31 under 35 USC § 103(a) as being obvious over Kaufman (U.S. Patent No. 2,835,596) in view of Davy (U.S. Patent No. 3,199,756); rejected claims 17-20 under 35 USC § 103(a) as being obvious over Kaufman and Davy and further in view of Warp (U.S. Patent No. 3,194,124). The Examiner also acknowledged receipt of the priority documents.

In the claims, claim 1 is now amended to incorporate the subject matter of claims 24, 25 and 26.

Former claims 28 and 29 have become redundant in view of the amendments to claim 1 and have been cancelled.

It is noted that each of these claims and claim 29 were rejected by the Examiner in the Official Action. However, the Examiner's rejection is respectfully traversed.

Regarding claim 26, the Examiner commented that Kaufman discloses a strip of filled pouches folded at points between the pouches and placed into the carton. The Examiner referred to Fig. 5. However, it is respectfully urged that Kaufman does not disclose inserting the pouches as a strip into the container. There is frequent reference to storing the bags in bins in a random distribution (for example column 2, line 10, column 3, line 13 and column 3 line 47) which at least implies that the bags are not connected together if not a direct teaching away.

Further, in the specific description, it is not disclosed that the bags of Kaufman are made from a continuous tube so that a strip of connected bags is created. Instead, as

indicated in column 3, lines 26 and 27, a tubular section of film is used to make a single bag. It is accordingly not disclosed that the pouches are folded into a pattern in a first step, as it is not possible to fold the loose packages of Kaufman. They need simply be stacked straight into the box one by one to form the array shown in Fig. 5.

The Examiner appears to have made no specific arguments at all concerning Kaufman and claims 24 and 25.

It is noted that the Examiner rejected claim 29 in view of a combination of Davy and Kaufman. In particular, the Examiner alleged that Davy teaches the formation of a strip of sealed pouches and folding the strip into a pattern and inserting the strip into a carton. It is apparent from Fig. 5 and the corresponding description in Davy that the operations of folding the strip and placing the packets into a carton are simultaneous. In particular, referring to column 3, lines 27 to 31, it is disclosed that the packages are arranged in a stack within the container E. The same point is made again in column 4, lines 52 to 55. Evidently, there is no intention to form a specific pattern of folded pouches in a first step and then, in a subsequent step, place the folded pattern of pouches into a container.

There is certainly no disclosure that the strip of folded pouches, when placed in the container, will form a space filling pattern with the walls of the container supporting the pattern as recited by present claim 1. It is evident from Fig. 5 of Davy that there is a space between the edges of the pouches and the walls of the container E. The arrangement of Figure 5 cannot provide adequate support for space for pouches according to the invention for containing brittle food stuff. The arrangement shown in Davy will permit sliding and damage.

Further, it would not be possible to adapt the arrangement of Kaufman using the teaching of Davy. Although Kaufman teaches packages which reach to the sides of the

container as shown in Figure 5, it is understood, as noted above, that this is achieved by assembling the packages as separate packages which are then inserted one by one so that they are placed into the desired arrangement. It would simply not be possible to achieve the arrangement of Kaufman by folding the packages. Interference between the strip of pouches and the walls of the carton during intermediate stages in the creation of the folded pattern would prevent the folding operation. Alternatively, the folding operation could only be carried out to a certain extent after which a space would have to be left. Accordingly, the need to leave a space to accommodate the folding operation as shown in Davy effectively teaches away from the arrangement in a container shown in Figure 5 of Kaufman. It is accordingly not possible to combine the teaching of these two documents to arrive at the subject matter of present claim 1.

None of the applied references teach the combination of walls of a box supporting a folded strip. None of the documents teach that this arrangement can give additional support to the pouches, to further protect the contents.

Dependent claims of the present application define further features.

For example, claim 7 requires that a pleat is formed in the tube so that the pouches are expandable. The skilled person would understand that a pleat implies that some kind of fold or tuck is formed during the operation of sealing and filling the pouch (as described on page 4, lines 13-14 of the present application). This does not appear to be the case in either Kaufman or Davy where simple folds are formed down the lateral sides and simple seams without pleats are formed at the sealed ends.

Further, the pleat or tuck allows the pouch to assume a cuboidal shape. Accordingly, the combination of claims 1, 7 and 10 is particularly advantageous. The cuboidal shape is a particularly efficient space filling shape, as pouches can be placed adjacent one another and

on top of one another with a minimum of wasted space between them and with a maximum support of adjacent faces to minimise damage to contained foodstuff. This is not disclosed in Davy or Kaufman.

So far as claim 17 is concerned, there is no reference to the formation of perforations between individual packets in Kaufman. Although this feature is present in Davy, the skilled person would not combine the teaching of these two disclosures, because it would not be possible to configure the packet into a strip as shown in Davy and then place the same into a box as shown in Kaufman.

It is reiterated that claim 30 defines a particularly inventive feature. In particular, there is a very strong desire when packaging breakfast cereal to find a packaging technique which allows the cereal to be protected from damage (breakfast cereal being notoriously brittle) and to maintain freshness. The present invention allows a packaging method whereby individual pouches can be provided within a single carton so that the user can open one pouch at a time, all other pouches remaining sealed and therefore fresh.

New claim 32, which is dependent upon claim 30, claims the particular application of the method to cereal packets in which the strip of sealed pouches is arranged transversely in the carton in a concertina configuration. This is different to what is shown in Kaufman. In Kaufman, because the packets are not connected to one another, they have to be inserted individually and can be removed individually. However, loading of the carton is very slow. According to claim 32, the loading can be performed very quickly. It is also particularly suitable for cereal packets. Cereal packets are traditionally accessed from the top. Because the packets are in a transverse concertina pattern, they can be taken one after another from the top, proceeding down the packet without disturbing the other pouches.

It is also noted, that although Kaufman discloses that the packet goods are not crushed, the skilled person would be aware that there could be crushing if the articles shown happened, on random chance, to lie three deep. However, the present inventor has discovered that cereal flows sufficiently to prevent any formation of a heap which is deeper than the dimension of the packet between flat faces and that the method is particularly successful when applied to cereal. Moreover, the particular configurations claimed in the present invention allow packages to be supported strongly and with a minimum of wasted space. There is no disclosure of this in any of the prior art.

For the reasons stated, the claimed invention is not rendered obvious by the applied references. Reconsideration and withdrawal of the § 103 rejections are respectfully requested.

As all grounds of rejection have been addressed and overcome, entry of this Amendment and issuance of a Notice of Allowance of all pending claims, as now presented, are respectfully solicited.

In the event that there are any questions relating to this Amendment or to the application in general, it would be appreciated if the examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

Please charge any shortage of fees or credit any overpayment thereof to BLANK ROME LLP, Deposit Account No. 23-2185 (000026-00032). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, Applicant hereby petitions under 37 C.F.R. 1.136(a) for an extension of time for as many months as are required to render this submission timely.

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Any fees due are authorized above.

Respectfully submitted,

ANDREW LAITT

By: Michael D. White  
Michael D. White  
Attorney for Applicant  
Registration No. 32,795

BLANK ROME LLP  
Watergate  
600 New Hampshire Avenue, NW  
Washington, DC 20037  
Telephone: 202-772-5800  
Facsimile: 202-572-8398  
Customer No. 27557